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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUL 19 2002

**VIA FEDERAL EXPRESS AND
FIRST CLASS MAIL**

Michael J. Eisler, Esq.
Straus & Eisler, P.A.
10081 Pines Blvd.
Suite C
Pembroke Pines, FL 33024

**Re: Required Submission of Information
Lower Darby Creek Area Superfund Site - Clearview Landfill, Folcroft Landfill,
and Folcroft Landfill Annex**

Dear Mr. Eisler:

The U.S. Environmental Protection Agency ("EPA") is seeking information concerning the release, or threat of release, of hazardous substances, pollutants or contaminants into the environment at the Clearview Landfill ("Clearview"), Folcroft Landfill, and Folcroft Landfill Annex portions of the Lower Darby Creek Area Superfund site, located in Delaware and Philadelphia Counties, Pennsylvania (hereinafter the "Site") (see Enclosure F for a list of Questions).

The Site is located in an industrialized portion of southeastern Delaware County and southwestern Philadelphia County, Pennsylvania, along an approximately two-mile stretch of Darby Creek, between Cobbs Creek to the north and the tidal marsh of John Heinz National Wildlife Refuge at Tinicum to the south (see Enclosure A). The Site also includes contaminated portions of areas along Darby Creek downstream as well as a portion of a 3500-acre tidal marsh.

As the attorney for the estate of Edward I. Heller, a former operator of the Clearview Landfill, EPA believes that you might possess information which may assist the Agency in its investigation of the Site.

EPA requires that you respond in writing fully and completely to the following items within **fifteen (15) calendar** days of your receipt of this letter.

If, for any reason, you do not provide all information responsive to this letter, then in your answer to EPA you must: (1) describe specifically what was not provided, and (2) provide to EPA an appropriate reason why the information was not provided.

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Enclosure B

Business Confidentiality Claims

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information, in the manner described in 40 C.F.R. Part 2, Subpart B. Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted when the information is submitted to EPA, EPA may make this information available to the public without further notice to you. You must clearly mark such claimed information by either stamping or using any other such form of notice that such information is a trade secret, proprietary, or company confidential. To best ensure that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.

Disclosure of Your Response to EPA Contractors and Grantees

EPA may contract with one or more independent contracting firms (See "Enclosure C") to review the documentation, including documents which you claim are confidential business information ("CBI"), which you submit in response to this information request, depending on available agency resources. Additionally, EPA may provide access to this information to (an) individual(s) working under (a) cooperative agreements(s) under the Senior Environmental Employee Program ("SEE Enrollees"). The SEE Program was authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98-313). The contractor(s) and/or SEE Enrollee(s) will be filing, organizing, analyzing and/or summarizing the information for EPA personnel. The contractors have signed a contract with EPA that contains a confidentiality clause with respect to CBI that they handle for EPA. The SEE Enrollee(s) is working under a cooperative agreement that contains a provision concerning the treatment and safeguarding of CBI. The individual SEE Enrollee has also signed a confidentiality agreement regarding treatment of CBI. Pursuant to Section 104(e)(7) of CERCLA, 42 U.S.C. Section 9604(e)(7), and EPA's regulations at 40 C.F.R. Section 2.310(h), EPA may share such CBI with EPA's authorized representatives which include contractors and cooperators under the Environmental Programs Assistance Act of 1984. (See 58 Fed.Reg. 7187 (1993)). If you have any objection to disclosure by EPA of documents which you claim are CBI to any or all of the entities listed in Enclosure C, you must notify EPA in writing at the time you submit such documents.

Enclosure C

List of Contractors that May Review Your Response

- Daston Corporation -
Contract #68-S3-01-01
Subcontractor to Daston Corporation is:
Dynamac Corporation
- Tetra Tech EM, Inc. -
Contract #68-S3-0002
Subcontractor to Tetra Tech EM, Inc. is
Eagle Instruments, Inc.
- Ecology and Environment, Inc. -
Contract #68-S3-001
Subcontractor to Ecology and
Environment, Inc. is:
S & S Engineers, Inc.
- Resource Applications, Inc. -
Contract #68-S3-003
Subcontracts to Resource Applications,
Inc. are:
C.C. Johnson & Malhotra, Inc.
Scientific & Environment Associates,
Inc.
Environmental Quality Management,
Inc.
- IT Corporation - Contract #68-S#-00-06
Subcontracts to IT Corporation are:
Weavertown Environmental Group
Environmental Restoration Company
- Earth Tech, Inc. - Contract #68-S3-00-07
Subcontractors to Earth Tech, Inc. are:
Industrial Marine Services, Inc.
Cline Oil
Hertz Equipment Rental
- Guardian Environmental Services, Inc.
Contract #68-S3-99-04
- ECG Industries, Inc. -
Contract #68-S3-99-05
Subcontractor to ECG Industries, Inc. is:
Earth Tech, Inc.
- Industrial Marine Services, Inc. -
Contract #68-S3-99-06
Subcontractors to Industrial Marine
Services, Inc. are:
Earth Tech, Inc.
Engineering and Environment, Inc.
- Tetra Tech NUS, Inc. -
Contract #68-S6-3003
Subcontractors to Tetra Tech NUS, Inc.
are:
Gannett Flemming, Inc.
Dynamac Corporation
C.C. Johnson & Malhotra, P.C.
- CDM-Federal Programs Corporation -
Contract #68-S7-3003
Subcontractors to CDM-Federal
Programs Corporation are:
Tetra Tech EM, Inc.
Robert Kimball & Associates
PMA & Associates
Horne Engineering
Pacific Environmental Services
- Black and Veatch Waste Science and
Technology Corporation/Tetra Tech, Inc.
Contract #68-S7-3002
- Universe Technologies -
Contract #68-S3-99-02
- Tech Law, Inc.- Contract #68-W-00-108
Subcontractor to Tech Law, Inc. is:
Gannett Flemming, Inc.

List of Cooperative Agreements

- National Association of Hispanic Elderly
- #CQ-822511
- AARP Foundation (Senior
Environmental Employment)
- #824021, #823952

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Enclosure D

Definitions

- The term "arrangement" shall mean every separate contract or other agreement or understanding between two or more persons, whether written or oral.
- The term "documents" shall mean writings, photographs, sound or magnetic records, drawings, or other similar things by which information has been preserved and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. Examples of documents include, but are not limited to, electronic mail and other forms of computer communication, drafts, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, summaries, pamphlets, books, invoices, checks, bills of lading, weight receipts, toll receipts, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, inter-office and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications such as e-mail), bulletins, printed matter, computer printouts, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, charts, graphs, microfiche, microfilm, videotapes, recordings and motion pictures), electronic, mechanical, magnetic or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), minutes of meetings, memoranda, notes, calendar or daily entries, agendas, notices, announcements, maps, manuals, brochures, reports of scientific study or investigation, schedules, price lists, data, sample analyses, and laboratory reports.
- The term "hazardous substance" means (a) any substance designated pursuant to section 1321(b)(2)(A) of Title 33 [of the U.S. Code], (b) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of [CERCLA], (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (42 U.S.C. Section 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) has been suspended by Act of Congress), (d) any toxic pollutant listed under section 1317(a) of Title 33, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. Section 7412), and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of Title 15 [of the U.S. Code]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- The term "pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release

into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring, except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under CERCLA, and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).

- The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.), if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act (42 U.S.C. Section 2210), or, for the purposes of section 9604 of [CERCLA] or any other response action, any release of source, byproduct, or special nuclear material from any processing site designated under sections 7912(a)(1) or 7942(a) of [CERCLA], and (d) the normal application of fertilizer.
- The term "waste" or "wastes" shall mean and include any discarded materials including, but not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants or contaminants, and discarded or spilled chemicals, whether solid, liquid, or sludge.
- The term "you" when referring to an incorporated entity shall mean and include the incorporated entity and its agents and representatives, including, but not limited to, persons directly authorized to transact business on the entity's behalf such as officers, directors, or partners with which the entity is affiliated, employees, accountants, engineers, or other persons who conduct business on the entity's behalf, as well as affiliated entities, including, but not limited to, partnerships, limited liability companies, divisions, subsidiaries, and holding companies.

Enclosure E

Instructions

1. You are entitled to assert a claim of business confidentiality covering any part or all of the information you submit. If you desire to assert a claim of business confidentiality, please see Enclosure B, *Business Confidentiality Claims/Disclosure of Your Response to EPA Contractors and Grantees*. You must clearly mark such information by either stamping or using any other form of notice that such information is a trade secret, proprietary, or company confidential. To ensure to the greatest extent that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.
2. Please provide a separate, detailed narrative response to each question, and to each subpart of each question, set forth in this Information Request. If you fail to provide a detailed response, EPA may deem your response to be insufficient and thus a failure to comply with this Information Request, which may subject you to penalties.
3. Precede each response with the number of the question or subpart of the question to which it corresponds. For each document or group of documents produced in response to this Information Request, indicate the number of the specific question or subpart of the question to which the document(s) responds.
4. Should you find at any time after submission of your response that any portion of the submitted information is false, misrepresents the truth or is incomplete, you must notify EPA of this fact and provide EPA with a corrected written response.
5. Any terms that are used in this Information Request and/or its Enclosures that are defined in CERCLA shall have the meaning set forth in CERCLA. Definitions of several such terms are set forth in Enclosure D, *Definitions*, for your convenience. Also, several additional terms not defined in CERCLA are defined in Enclosure D. Those terms shall have the meaning set forth in Enclosure D any time such terms are used in this Information Request and/or its Enclosures.


Enclosure F

QUESTIONS

The following questions (#1-15) relate to Edward Heller and to the real property owned by the Clearview Land Development Company, and located near 84th Street between Darby Creek and Lindbergh Blvd. in Darby Township, Pennsylvania. The subject property (copies of deeds enclosed), was formerly operated as an unpermitted industrial waste landfill (the Clearview Landfill, a/k/a Heller's Dump) by Richard R. and Edward I. Heller and the Clearview Land Development Company, from the mid-1950's through 1976.

1. On what date did Edward Heller die?
2. Provide copies of the following tax returns for Edward Heller's Estate ("the Estate"):
 - a. Federal Form 706.
 - b. State Inheritance Tax Return.
3. Identify and provide copies of all probate filings in any state for the Estate.
4. Identify and provide copies of all documents showing receipts and expenditures, assets and liabilities, profits and losses, distributions of corpus and income (including the names and social security numbers of beneficiaries), and all other records used for recording the Estate's financial affairs.
5. Identify and provide copies of all documents showing agreements between the Estate and other persons.
6. Identify and provide copies of all documents showing transactions between the Estate, its executors and personal representatives, and beneficiaries.
7. Did Edward Heller create any Trusts or was he the beneficiary, settlor, grantor or trustee of any Trust?
8. Did Edward Heller transfer any assets greater than \$10,000 within three years of his death?
9. What assets are/were available in Edward Heller's Estate and to whom will they be/were they distributed?
10. Who is/are the executor(s) of Edward Heller's Estate?

11. Did/Does Edward Heller's Estate include his stock or other interest in the Clearview Land Development Company? If so, to whom was such stock or interest distributed or to whom will it be distributed? If such stock or other interest was not included in the Estate, please explain in detail why it was not, and what was/will be done with it instead.
12. What is/was the last date by which creditors are/were permitted to file claims against the Estate?
13. EPA has learned that the real property owned by Edward Heller and located at 10180 W. Bay Drive, 2A, Bay Harbor Island, FL was recently sold. Please provide the following:
- The total sale amount;
 - A detailed list the of secured creditors and the amount of the secured interest of each in the subject real property;
 - An explanation of what will be/has been done with the proceeds of the sale of the real property.
14. Provide a copy of the following documents:
- Edward Heller's will and all codicils and amendments;
 - The inventory filed by the Estate on 5/16/01, as well as copies of any subsequently filed inventories or updates to the same; and
 - The final accounting of the Estate. If no final accounting has been prepared to date, please provide the most recent accounting information available for the Estate.
15. Do/Did you also represent the estate of Ethel Heller, Edward Heller's deceased wife? If so, please answer the following questions concerning Ethel Heller's Estate.
- On what date did Ethel Heller die?
 - Provide copies of the following tax returns for Ethel Heller's Estate:
 - 1) Federal Form 706.
 - 2) State Inheritance Tax Return.
 - Identify and provide copies of all probate filings in any state for Ethel Heller's Estate.
 - Identify and provide copies of all documents showing receipts and expenditures, assets and liabilities, profits and losses, distributions of corpus and income (including the names and social security numbers of beneficiaries), and all other records used for recording Ethel Heller's Estate's financial affairs.

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- e. Identify and provide copies of all documents showing agreements between Ethel Heller's Estate and other persons.
 - f. Identify and provide copies of all documents showing transactions between Ethel Heller's Estate, its executors and personal representatives, and beneficiaries.
 - g. Did Ethel Heller create any Trusts or was she the beneficiary, settlor, grantor or trustee of any Trust?
 - h. Did Ethel Heller transfer any assets greater than \$10,000 within three years of her death?
 - i. What assets are/were available in Ethel Heller's Estate and to whom will they be/were they distributed?
 - j. Who is/are or was/were the executor(s) of Ethel Heller's Estate?
 - k. Did/does Ethel Heller's Estate include her stock or other interest in the Clearview Land Development Company? If so, to whom was such stock or interest distributed or to whom will it be distributed? If such stock or other interest was not included in Ethel Heller's Estate, please explain in detail why it was not, and what was/will be done with it instead.
 - l. What is/was the last date by which creditors are/were permitted to file claims against Ethel Heller's Estate?
 - m. Provide a copy of the following documents concerning Ethel Heller's Estate:
 - 1) Ethel Heller's will and all codicils and amendments;
 - 2) Any inventories filed by Ethel Heller's Estate; and
 - 3) The final accounting of Ethel Heller's Estate. If no final accounting has been prepared to date, please provide the most recent accounting information available for Ethel Heller's Estate.